

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – March 19, 2013**

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:00 P.M.

Mayor McDonald read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1975, Chapter 231’ have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.”

Mayor McDonald led everyone in the flag salute.

Roll Call: Jewell, McDonald, Thompson, Conry, Torres (Arrived at 7:03pm), Gleba (Arrived at 7:25pm)

Absent: Higgins

Also Present: Kristine Blanchard, Manager/Borough Clerk
Judy Kopen, Attorney

MINUTES:

Budget Meeting – February 26, 2013 Regular Meeting – March 5, 2013.

Motion made by Jewell, seconded by Thompson to approve the minutes of February 26, 2013 and March 5, 2013.

Councilman Torres arrived at this time.

Council Discussion:

Councilman Jewell noted that there is a change needed within the March 5, 2013 minutes. During the Streets Committee Report it was stated that Jackson Avenue (to Allegar Street) was on the list of potential streets to be paved. It should have been Jackson Avenue and Allegar Street.

Ayes: 5, Nays: 0

Abstain: 0

Motion Carried

COUNCIL APPEARANCE:

Mr. Wayne Dietz, D&H Risk Solutions – Safety Award

Mr. Dietz introduced himself as the Risk Manager for Washington Borough and D&H Risk Solutions are starting their fifth year with the Borough. On February 7th, 2013 the Joint Insurance Fund that Washington Borough is a charter member of held a re-organizational meeting. The Borough of Washington received an award in the lines of worker's compensation for attention to loss control resulting in an improved loss ratio during 2012. The Borough has for four consecutive years, an insurance increase of less than two percent. Through training and safety committee meetings and a sense of working safely on an everyday basis, the Borough has achieved a superior record. Mr. Dietz presented the award from Statewide Insurance.

AUDIENCE:

Hearing no comments from the audience a motion was made by Torres, seconded by Jewell, to close the audience portion of the meeting.

Ayes: 5, Nays: 0
Motion Carried

REPORTS:

A motion was made by Jewell, seconded by Torres to receive and file the following reports:

1. Manager's Report
2. Municipal Court Report
3. Washington Township Police – February 2013
4. Warren County Board of Health – March
5. Tax Reports – January and February

Ayes: 5, Nays: 0
Motion Carried

COUNCIL COMMITTEE REPORTS:

Councilman Thompson stated that the Recreation Commission will be holding their Easter Egg Hunt on Saturday, April 6th at 1:00 pm with a rain date of Sunday, April 7th also at 1:00 pm. Councilman Thompson also stated that the Recreation Commission is moving forward with the grandstand fencing project at Boro Park.

OLD BUSINESS:

Washington Community Solar – Update

Council Discussion:

Attorney Kopen stated that she did speak to Eric Altman from Washington Community Solar this afternoon who indicated that a representative was going to be here on their behalf to discuss the request for an extension. Council agreed to table this discussion until the end of the meeting to give their representative a chance to arrive.

NEW BUSINESS:

Approval of 2013 Litter Abatement/Clean Communities Program from Dove Environmental

Council Discussion:

Manager Blanchard stated that the 2013 Litter Abatement/Clean Communities Program is paid out of the Clean Communities funding. Manager Blanchard feels this is a positive way to get the clean community word out to our community and our schools.

A motion to approve the 2013 Litter Abatement/Clean Communities Program made by Jewell, seconded by Conry and approved.

Roll Call: Jewell, Conry, Thomspen, Torres, McDonald
Ayes: 4, Nays: 0
Abstain: 1 (Thompson)
Motion Carried

Resolution #60-2013 Supporting Approval of Public Question of Bonded Indebtedness by the County of Warren.

Resolution #60-2013 was moved on a motion made by Conry, hearing no second. Motion fails.

Resolution #61-2013 – Tax Sale Certificate Redemption

RESOLUTION #61-2013
A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865, in the amount of \$38.91 for taxes or other municipal liens assessed for the year 2010 in the name of Salazar, Fredy, as supposed owner, and in said assessment and sale were described as 84 Lenape Trail, Block 101 Lot 15.20, which sale was evidenced by Certificate #10-00039; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3-05-13 and before the right to redeem was cut off, as provided by law, Wells Fargo claiming to have an interest in said lands, did redeem said lands claimed by Arthur Frustaci by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$25,100.68, which is the amount necessary to redeem Tax Sale Certificate #10-00039.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865 in the **amount of \$25,100.68.**

Resolution #62-2013 – Tax Sale Certificate Redemption

RESOLUTION #62-2013

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 25, 2012 to Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865, in the amount of \$697.02 for taxes or other municipal liens assessed for the year 2011 in the name of Trembley, Marie S. & William H. as supposed owners, and in said assessment and sale were described as 100 Myrtle Avenue, Block 44 Lot 29, which sale was evidenced by Certificate #12-00032; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3-05-13 and before the right to redeem was cut off, as provided by law, Ocwen Loan Servicing claiming to have an interest in said lands, did redeem said lands claimed by Arthur Frustaci by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,471.17 which is the

amount necessary to redeem Tax Sale Certificate #12-00032.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Arthur Frustaci, 1178 Fifth Avenue, Alpha, NJ 08865 in the **amount of \$1,471.17**.

Resolution #63-2013 – Tax Sale Certificate Redemption

RESOLUTION #63-2013
A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE
As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 25, 2012 to FWDSL & Associates LP, 5 Cold Hill Road, Mendham, NJ 07945, in the amount of \$691.93 for taxes or other municipal liens assessed for the year 2011 in the name of Dieterman, Matthew W. as supposed owner, and in said assessment and sale were described as 14 School Street, Block 6 Lot 29, which sale was evidenced by Certificate #12-00005; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3-05-13 and before the right to redeem was cut off, as provided by law, Corelogic Tax Service claiming to have an interest in said lands, did redeem said lands claimed by FWDSL & Associates LP by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1415.88 which is the amount necessary to redeem Tax Sale Certificate #12-00005.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to FWDSL & Associates LP, 5 Cold Hill Road, Mendham, NJ 07945 in the **amount of \$1,815.88** (this amount consists of \$1,415.88 Certificate Amount redeemed + \$400.00 Premium).

Resolution #64-2013 – Tax Sale Certificate Redemption

RESOLUTION #64-2013
A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE
As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 25, 2012 to FWDSL & Associates LP, 5 Cold Hill Road, Mendham, NJ 07945, in the amount of \$692.60 for taxes or other municipal liens assessed for the year 2011 in the name of Kohler, Christina M. as supposed owner, and in said assessment and sale were described as 99 North Lincoln Avenue, Block 16 Lot 11, which sale was evidenced by Certificate #12-00014; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3-05-13 and before the right to redeem was cut off, as provided by law, Corelogic Tax Service claiming to have an interest in said lands, did redeem said lands claimed by FWDSL & Associates LP by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,922.99 which is the amount necessary to redeem Tax Sale Certificate #12-00014.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to FWDSL & Associates LP, 5 Cold Hill Road, Mendham, NJ 07945 in the **amount of \$2,322.99** (this amount consists of \$1,922.99 Certificate Amount redeemed + \$400.00 Premium).

Resolution #65-2013 – Tax Sale Certificate Redemption

RESOLUTION #65-2013

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 25, 2012 to US Bank Cust Pro Capital I LLC, TLSG, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102, in the amount of \$702.64 for taxes or other municipal liens assessed for the year 2011 in the name of Comerro, Kyle P. & Nikole as supposed owners, and in said assessment and sale were described as 6 Myrtle Avenue, Block 44 Lot 35, which sale was evidenced by Certificate #12-00034; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 2-26-13 and before the right to redeem was cut off, as provided by law, Bank of America/Deutsche Bank claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Pro Capital I LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$1,726.74 which is the amount necessary to redeem Tax Sale Certificate #12-00034.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by

the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to US Bank Cust Pro Capital I LLC, TLSG, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102 in the amount of **\$1,726.74** (this amount consists of \$1,426.74 Certificate Amount redeemed + \$400.00 Premium).

Resolution #66-2013 – Tax Sale Certificate Redemption

RESOLUTION #66-2013

A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

As per N.J.S.A.54:5

KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on September 16, 2010 to US Bank Cust Empire Tax Fund I, TLSG, 2 Liberty Place, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102-2513, in the amount of \$2,495.44 for taxes or other municipal liens assessed for the year 2009 in the name of Thompson, Warren as supposed owner and in said assessment and sale were described as 38 North Wandling Avenue, Block 11 Lot 1.02, which sale was evidenced by Certificate #10-00008; and

WHEREAS, I, Kay F. Stasyshan, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 3/07/13 and before the right to redeem was cut off, as provided by law, Warren Thompson claiming to have an interest in said lands, did redeem said lands claimed by US Bank Cust Empire Tax Fund I by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$13,372.31, which is the amount necessary to redeem Tax Sale Certificate #10-00008.

NOW THEREFORE BE IT RESOLVED, on this 19th day of March, 2013 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to US Bank Cust Empire Tax Fund I, TLSG, 2 Liberty Place, 50 S 16th Street, Suite 1950, Philadelphia, PA 19102-2513 in the **amount of \$13,372.31**.

Resolutions #61-2013, #62-2013, #63-2013, #64-2013, #65-2013, #66-2013 were moved on a motion made by Torres, seconded by Jewell and approved.

Roll Call: Jewell, Torres, McDonald, Thompson, Conry
Ayes: 5, Nays: 0
Motion Carried

Resolution #68-2013 – Refund of Tax Payment by Outside Lien Holder

RESOLUTION # 68-2013
A RESOLUTION TO REFUND OUTSIDE LIEN HOLDER'S TAX PAYMENT
ON BLOCK 11 LOT 1.02

WHEREAS, according to the Tax Collector's records, a payment was incorrectly posted for an outside lien holder on 1-31-13 as a regular tax payment. The certificate that this payment was to be applied to as a subsequent payment was redeemed as of 3-07-13 and the amount for redemption (not including this payment) was verified by the lien holder on 2-15-13 as the correct amount for redemption.

WHEREAS, the Tax Collector is requesting the tax payment be refunded to US Bank Cust Empire Tax Fund I.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the amount of \$599.86, payable to:

US Bank Cust Empire Tax Fund I
TLSG; 2 Liberty Place
50 South 16th Street, Ste 1950
Philadelphia, PA 19102-2513

Resolution #68-2013 was moved on a motion made by Torres, seconded by Thompson and approved.

Roll Call: Jewell, Torres, McDonald, Thompson, Conry
Ayes: 5, Nays: 0
Motion Carried

VOUCHERS:

Mayor McDonald entertained a motion to approve the vouchers and claims in the amount of \$1,579,794.79

Motion made by Torres, seconded by Conry and approved.

Roll Call: Jewell, Torres, McDonald, Conry, Thompson
Ayes: 5, Nays: 0
Abstain: Thompson – Fire Dept. & EMS

Jewell – Fire Dept. & EMS

Council Discussion:

Councilman Jewell asked if the Borough has heard anything back from New Jersey American Water in regards to the hydrant fees. Manager Blanchard replied that she heard from a representative on Monday and that a conference call is in place for Tuesday, March 20th and there will be more information after the completion of that call.

OLD BUSINESS:

Resolution #69-2013 – Authorizing an Amendment to the Power Purchase Agreement with Washington Community Solar, LLC

RESOLUTION # 69-2013
RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AN
AMENDMENT TO THE POWER PURCHASE AGREEMENT WITH
WASHINGTON COMMUNITY SOLAR, LLC

WHEREAS, the Borough of Washington (“Borough”) and Washington Community Solar, LLC (“WCS”) entered into a Power Purchase Agreement (“PPA”) dated January 17, 2012, for the purpose of providing solar energy to certain Borough facilities through solar facilities to be constructed by WCS on property in Washington Township adjacent to property owned by the Borough; and

WHEREAS, by the terms of the PPA, WCS had six months from the Effective Date of the PPA to obtain all required State and local regulatory permits, consents and approvals to enable it to construct its solar facilities; and

WHEREAS, WCS has requested that the Borough grant it an approximate three month extension of time so that it will have until September 30, 2013 to obtain the required permits and consents; and

WHEREAS, WCS has represented to the Borough that the requested extension will require an extension until December 31, 2013 to begin providing electricity to the Borough as required by the PPA; and

WHEREAS, the Mayor and Council have reviewed the request of WCS for an extension of time to obtain its permits and have determined that the request should be granted;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, as follows:

1. The Mayor and Council consent to the amendment of Section 2 of the PPA to provide that Washington Community Solar, LLC shall have until September 30, 2013 to obtain all required State and local regulatory permits, consents and approvals, to design, permit, acquire, construct and install its solar facility.

2. The Mayor and Council also consent to the amendment of Section 3.3A of the PPA to provide that Washington Community Solar, LLC shall be allowed a six month extension until December 31, 2013 that Washington Community Solar shall commence the delivery and sale of the electricity to the Borough.

3. The Mayor and Clerk are hereby authorized to sign a letter agreement to be prepared by the Borough Attorney amending Section 2 and Section 3.3A of the PPA as set forth above.

Mr. Anthony Molla – 1 Empire Plaza Stroudsburg, PA

Mr. Molla stated that he along with his partners started this project a few years ago and set out to produce a solar array that would provide power to the sewer authority and reduce the electricity consumption costs. The target price is nine cents a kilowatt hour which is approximately half the rate the Borough was paying. Mr. Molla stated that just as they were sent to Washington Township to get approvals, the solar array business plummeted. Predominately because the solar renewable energy credit market was at six hundred dollars per credit and went as low as ninety eight dollars per credit. Along with that, the conventional bank financing for solar projects virtually disappeared. New Jersey responded well by putting together some legislation that will provide solar renewable energy credits to balance at about the target rate of two hundred fifty dollars per credit. Washington Community Solar pursued all the necessary approvals through Washington Township and Washington Borough. They were granted preliminary approval and final approval with conditions. The time period for responding in the Borough is sometime in March. Washington Community Solar is asking for a six month extension to pursue these conditions and to satisfy the conditions of their financing and move forward with the project.

Council Discussion:

Councilman Torres stated that this is the third extension and asked if this is definitely the last extension. Mr. Molla responded that this would be the last extension or there will be a complete retreat from the project. Mr. Molla stated that Washington Community Solar has final approval from Washington Township with conditions, mostly engineering housekeeping items. The project is being built on Township property at the land adjacent to the DPW Garage. Councilman Jewell stated that one of the conditions was for Washington Community Solar to improve the roadway which will be used to access the property to some extent. Mr. Molla stated that is actually one of the conditions that Washington Community Solar may come back and address at another time. Mr. Molla stated that there are other conditions mostly engineering in nature and nothing that would stop the project from moving forward. Attorney Kopen stated that she can review the conditions of the planning board. Attorney Kopen also stated that the terms of the agreement are such that either party can withdraw from the agreement if they wish. There are no damages that are available to the Borough if the Borough wishes to not

move forward at this point in time.

Attorney Kopen suggested that another paragraph be added to the resolution. Washington Community Solar is not only requesting that section 2 of the Power Purchase Agreement be amended to increase the timeframe by six months, but also requesting that section 3.3a of the Power Purchase Agreement be amended also. Section 3.3a provides the date that Washington Community Solar shall commence the delivery and sale of the electricity to the Borough. The current deadline for that is June 30, 2013 and Washington Community Solar wants that deadline extended for six months as well. That paragraph needs to be added to the proposed resolution.

Resolution #69-2013 was moved on a motion made by Torres, seconded by Jewell and approved.

Ayes: 5, Nays: 0
Motion Carried

MEETING RE-CAP:

Manager Blanchard stated that she will make the changes to Resolution #69-2013 authorizing the Mayor and Clerk to execute an amendment to the Power Purchase Agreement with Washington Community Solar, LLC that were suggested by Attorney Kopen.

COUNCIL REMARKS:

Councilman Jewell asked if Council could remember the seven marines that perished in a training exercise today by putting the flag at half-staff.

At this time, Mayor McDonald stated that Council will enter into Executive Session.

EXECUTIVE SESSION:

Resolution #67-2013 Executive Session Authorization

A motion was made by Torres, seconded by Conry, to go into Executive Session.

Ayes: 5, Nays: 0
Motion Carried

Councilwoman Gleba arrived at this time.

RESOLUTION # 67-2013
RESOLUTION AUTHORIZING EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

WHEREAS, the Open Public Meetings Act also recognizes exceptions to the right of the public to attend portions of such meetings; and

WHEREAS, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

WHEREAS, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

_____A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public (Provision relied upon: _____);

_____A matter where the release of information would impair a right to receive funds from the federal government;

_____A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

_____A collective bargaining agreement, or the terms and conditions thereof (Specify contract: _____);

_____A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed; Real Estate Acquisitions

_____Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____Investigations of violations or possible violations of the law;

Mayor Scott McDonald

Kristine Blanchard, RMC Borough Clerk